

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOSEPH DUNN	)	Case No.: 3:22-cv-543
701 E. Sandusky St.)	
Findlay, OH 45840)	
	)	Judge:
and)	
	)	PLAINTIFFS' COMPLAINT
TRACI DUNN	)	WITH JURY DEMAND ENDORSED HEREON
701 E. Sandusky St.)	
Findlay, OH 45840	)	Charles E. Boyk (0000494)
	)	Michael A. Bruno (0033780)
	)	Andrea R. Young (0096334)
Plaintiffs,	)	Charles E. Boyk Law Offices, LLC
	)	1500 Timberwolf Drive
	)	Holland, OH 43528
v.	)	Telephone: (419) 241-1395
	)	Facsimile: (419) 241-8731
2426498 ONTARIO, INC. D.B.A.	)	cboyk@charlesboyk-law.com
BROOKS TRANSPORT SERVICES	)	mbruno@charlesboyk-law.com
29003-1051 Wonderland Rd. South	)	ayoung@charlesboyk-law.com
London, ON N6K 4L9)	
	)	<i>Attorneys for Plaintiff</i>
and)	
)	
HUGO ORLANDO GUTIERREZ-)	
ZORRO)	
352 Ridgewood Cres.)	
London, ON N6J3G9)	
)	
Defendants.)	

Now come Plaintiffs Joseph Dunn and his wife, Traci Dunn, by and through counsel, and hereby bring the following Complaint against Defendants 2426498 Ontario, Inc. D.B.A. Brooks Transport Services and Hugo Orlando Gutierrez-Zorro for injuries and damages arising out of a

collision involving 11 vehicles on or about August 2, 2020 on Interstate 75 in Rossford, Wood County, Ohio when a tractor trailer owned and operated by 2426498 Ontario, Inc. D.B.A. Brooks Transport Services sustained a fuel leak. In support of their Complaint, Plaintiffs state as follows:

PARTIES

1. Plaintiff Joseph Dunn and his wife Plaintiff Traci Dunn are individuals and residents of the State of Ohio.
2. Defendant 2426498 Ontario, Inc. D.B.A. Brooks Transport Services (“Brooks Transport”) is a motor vehicle carrier that upon information and belief is a corporation organized under the laws of Ontario, Canada with its principal place of business in London, Ontario, Canada. Upon information and belief, 2426498 Ontario, Inc. is doing business as Brooks Transport Services. It is registered with the Federal Motor Carrier Safety Administration with a USDOT number of 3006439.
3. Defendant Hugo Orlando Gutierrez-Zorro resides at 352 Ridgewood Cres., London, Ontario, N6J 3G9.

JURISDICTION AND VENUE

4. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
5. This Court has original jurisdiction over this matter under 28 U.S.C. § 1332 because the Plaintiffs’ citizenship is diverse from each of the Defendants’ citizenship, and because the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00).
6. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the collision described herein occurred in Wood County, Ohio, which is located in this judicial district.

FACTUAL ALLEGATIONS

7. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
8. On or about August 2, 2020, Plaintiff Joseph Dunn was a passenger in a Chevrolet Traverse traveling southwest bound on Interstate 75 near milepost 197 in Rossford, Wood County, Ohio.
9. At the same time, Defendant Hugo Orlando Gutierrez-Zorro was operating a semi-truck in the course and scope of his employment and/or agency with Defendant Brooks Transport when that truck sustained a fuel leak for several miles causing diesel fuel to spill onto both the northbound and southbound lanes of Interstate 75.
10. Several vehicles slid on the diesel fuel and lost control. The vehicle in which Joseph Dunn was a passenger slowed for traffic and was rear-ended by a Chevrolet Silverado.
11. Ohio State Highway Patrol responded to the scene and cited Defendant Hugo Orlando Gutierrez-Zorro for operating an unsafe vehicle, a violation of O.R.C. 4513.02.

FIRST CAUSE OF ACTION

(Negligence – Defendant Hugo Orlando Gutierrez-Zorro)

1. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
2. Defendant Hugo Orlando Gutierrez-Zorro had a duty to exercise ordinary care and caution for the safety and welfare of others in the operation of a commercial motor vehicle, including by driving the tractor-trailer in a safe and reasonable manner, avoiding collisions, maintaining reasonable control and speed of the vehicle, and by adhering to the laws of the State of Ohio, the Federal Motor Carrier Safety Act, the Federal Motor Carrier Safety Regulations, and the rules of common law.

3. Defendant Gutierrez-Zorro breached his duties of care and was negligent by failing to maintain a safe vehicle.
4. As a direct and proximate cause of Defendant Gutierrez-Zorro's negligence, Plaintiff Joseph Dunn sustained serious personal injuries, including but not limited to injuries to his neck and back. These injuries required medical care and caused Plaintiff Joseph Dunn to incur substantial medical and hospital care costs, lost income, other economic loss, and also caused pain and suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION
(Vicarious Liability – Brooks Transport)

1. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
2. At all relevant times, Defendant Gutierrez-Zorro was the employee, agent, servant, or independent contractor of Defendant Brooks Transport. Accordingly, Defendant Brooks Transport is vicariously liable for the acts of Defendant Gutierrez-Zorro described herein.
3. Regardless of the employment or agency relationship, Defendant Brooks Transport, Inc. is an interstate motor carrier and the registered owner or operator of the commercial motor vehicle driven by Defendant Gutierrez-Zorro and is therefore responsible for the acts of the Defendant-driver.

THIRD CAUSE OF ACTION
(Negligence – Brooks Transport)

4. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
5. Defendant Brooks Transport had a duty to act reasonably in hiring, instructing, training, supervising, and retaining all drivers operating under its federal motor carrier operating

authority and other employees and agents, including Defendant Gutierrez-Zorro, and to promulgate and enforce policies, procedures, and rules to ensure that its drivers and vehicles were reasonably safe.

6. Defendant Brooks Transport had a duty to exercise reasonable care in all its actions and omissions.
7. Defendant Brooks Transport had a duty to exercise reasonable care in entrusting its vehicles and equipment to responsible, competent, and qualified drivers.
8. Defendant Brooks Transport failed in the above-mentioned duties and was therefore negligent.
9. Defendant Brooks Transport's negligence was the direct and proximate cause of the injuries and damages described in this Complaint.

FOURTH CAUSE OF ACTION

(Loss of Consortium – Plaintiff Traci Dunn – All Defendants)

12. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
13. Plaintiff Traci Dunn is Plaintiff Joseph Dunn's legal spouse and has been his legal spouse at all times relevant to this Complaint.
14. Plaintiff Traci Dunn states that as a result of the Defendants' negligence, she has been deprived of the love, affection, services, consortium, and society of her husband, Plaintiff Joseph Dunn.
15. Plaintiff Traci Dunn further states that as a result of the Defendants' negligence, the enjoyment and quality of her life and her ability to carry on the normal activities of her daily life with her husband have been impaired.

WHEREFORE, Plaintiffs pray for judgment to be entered against the Defendants on each of the claims against them in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), together with interest, costs, reasonable attorney fees associated herewith, and such other relief as the Court may deem just.

Respectfully submitted,

/s/ Charles E. Boyk
Charles E. Boyk (0000494)
Michael A. Bruno (0033780)
Andrea R. Young (0096334)
Attorneys for Plaintiff

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues triable by right.

Respectfully submitted,

/s Charles E. Boyk
Charles E. Boyk (0000494)
Michael A. Bruno (0033780)
Andrea R. Young (0096334)
Attorneys for Plaintiff